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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Philip D. Nguyen

Application No: 10 / 608,373

Group No.: 3672

Filed: 06/27/2003

Examiner: Fuller, Bryan AA

For: Permeable Cement and MEthods of Fracturing Utilizing Permeable Cement In Subterranean Well bores

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT  
BEFORE MAILING DATE OF EITHER A FINAL ACTION  
OR NOTICE OF ALLOWANCE (37 C.F.R. § 1.97(c))

NOTE: 37 C.F.R. 1.97: "(c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:

(1) The statement specified in paragraph (e) of this section; or

(2) The fee set forth in § 1.17(p)."

NOTE: "If a final action or notice of allowance is mailed in an application and later withdrawn, the application will be considered as not having had a final action or notice of allowance mailed for purposes of considering an information disclosure statement." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

## CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\*

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

## MAILING

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37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10 \*

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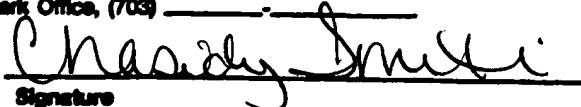
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## TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office, (703) \_\_\_\_\_

Date: 8-16-05

Signature



Chasidy Smith

(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance [3-4]—page 1 of 3)



**NOTE:** 37 C.F.R. § 1.704(c): "A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(8), (c)(9), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.59(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable."

**NOTE:** "If information submitted during the period set forth in 37 C.F.R. 1.97(c) with a certification is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that applicant has submitted the information to the office promptly after it has become known and the information is being submitted prior to a final determination on patentability by the Office. However, the information submitted with a certification can be used in a new ground of rejection and the next Office action made final, if the new ground of rejection was necessitated by amendment of the application by applicant. Where the information is submitted during this period with a fee, the examiner may use the information submitted, e.g., printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP 708.07(a). If a new ground of rejection is introduced that is neither necessitated by an amendment to the claims nor based on the information submitted with the fee set forth in 37 C.F.R. § 1.17(b), the Office action shall not be made final." Notice of April 20, 1982 (1138 O.G. 37-41, 38).

**WARNING:** "A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 C.F.R. § 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1982 (1141 O.G. 63). But see § 103(b) and (c), limited suspension of action in a continued prosecution application (CPA) filed under § 1.53(d) and in a request for continued examination (RCE) under § 1.114.

**WARNING:** No extension of time can be had under 37 C.F.R. 1.136 (a) or (b) for filing an IDS. 37 C.F.R. 1.97(f).

### **TIME OF TRANSMITTAL OF ACCOMPANYING INFORMATION DISCLOSURE STATEMENT**

1. The information disclosure statement transmitted herewith is being filed after three months of the filing date of this national application or the date of entry of the national stage as set forth in § 1.491 in an international application or after the mailing date of the first Office action on the merits, whichever event occurred last but before the mailing date of either:
  - (1) a final action under § 1.113 or
  - (2) a notice of allowance under § 1.311,whichever occurs first.

### **STATEMENT OR FEE**

2. Accompanying this transmittal is

(check either A or B below)

- A. ☐ a statement as specified in 37 C.F.R. § 1.97(e).

**OR**

- B. ☒ the fee set forth in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under § 1.97(c). (\$180.00).

(Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance. [3-4]—page 2 of 3)

## FEE PAYMENT

(complete this item, if applicable)

3. Applicant elects the option to pay the fee set forth in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under § 1.97(c) (\$180.00):

Fee due \$ 180

## METHOD OF PAYMENT OF FEE

4.

- ☐ Attached is a ☐ check ☐ money order in the amount of \$ \_\_\_\_\_
- ☒ Authorization is hereby made to charge the amount of \$ 180
- ☒ to Deposit Account No. 08-0300
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**WARNING:** Credit card information should not be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

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PTO-1449 Information Disclosure Citation in an Application	Application No. 10/608,373	Applicant(s): Philip D. Nguyen	
	Docket Number 2003-IP-010077U2	Group Art Unit 3672	Filing Date 006/27/2003



**U.S. PATENT DOCUMENTS**

	DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
	5,607,905	03/04/97	Dobson, Jr. et al.	507	211	03/15/94
	6,394,185 B1	05/28/02	Constien	166	296	07/27/00
	6,761,218 B2	07/13/04	Nguyen et al.	166	278	04/01/02
	US 2002/0125012 A1	09/12/02	Dawson et al.	166	300	01/08/02

**NON-PATENT DOCUMENTS**

	DOCUMENT (Including Author, Title, Source, and Pertinent Pages)	DATE
	SKRABAL ET AL., <i>THE HYDROLYSIS RATE OF ORTHOFORMIC ACID ETHYL ETHER</i> , CHEMICAL INSTITUTE OF THE UNIVERSITY OF GRAZ, PAGES 1-38	01/13/21
	Heller, et al., <i>Poly(ortho esters) – From Concept To Reality</i> , Biomacromolecules, Vol. 5, No. 5, 2004 (pp. 1625-1632)	05/09/79
	Schwach-Abdellaoui, et al., <i>Hydrolysis and Erosion Studies of Autocatalyzed Poly(ortho esters) Containing Lactoyl-Lactyl Acid Dimers</i> , American Chemical Society, Vol. 32, No. 2, 1999 (pp. 301-307)	
	Ng, et al., <i>Synthesis and Erosion Studies of Self-Catalyzed Poly(ortho ester)s</i> , American Chemical Society, Vol. 30, No. 4, 1997 (pp. 770-772)	
	Ng, et al., <i>Development Of A Poly(ortho ester) prototype With A Latent Acid In The Polymer Backbone For 5-fluorouracil Delivery</i> , Journal of Controlled Release 65 (2000), (pp. 367-374)	
	Rothen-Weinhold, et al., <i>Release of BSA from poly(ortho ester) extruded thin strands</i> , Journal of Controlled Release 71, 2001, (pp. 31-37)	
	Heller, et al., <i>Poly(ortho ester)s – their development and some recent applications</i> , European Journal of Pharmaceutics and Biopharmaceutics, 50, 2000, (pp. 121-128)	
	Heller, et al., <i>Poly(ortho esters); synthesis, characterization, properties and uses</i> , Advanced Drug Delivery Reviews, 54, 2002, (pp. 1015-1039)	
	Heller, et al., <i>Poly(ortho esters) For The Pulsed And Continuous Delivery of Peptides And Proteins</i> , Controlled Release and Biomedical Polymers Department, SRI International, (pp. 39-46)	
	Zignani, et al., <i>Subconjunctival biocompatibility of a viscous bioerodable poly(ortho ester)</i> , J. Biomed Mater Res, 39, 1998, pp. 277-285	
	Toncheva, et al., <i>Use of Block Copolymers of Poly(Ortho Esters) and Poly (Ethylene Glycol)</i> , Journal of Drug Targeting, 2003, Vol. 11(6), pp. 345-353	
	Schwach-Abdellaoui, et al., <i>Control of Molecular Weight For Auto-Catalyzed Poly(ortho ester) Obtained by Polycondensation Reaction</i> , International Journal of Polymer Anal. Charact., 7: 145-161, 2002, pp. 145-161	
	Heller, et al., <i>Release of Norethindrone from Poly(Ortho Esters)</i> , Polymer Engineering and Science, Mid-August, 1981, Vol. 21, No. 11 (pp. 727-731)	

EXAMINER	DATE CONSIDERED
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.	